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COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

PART V

Accompanying document to the

WHITE PAPER

on Insurance Guarantee Schemes

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**EUROPEAN
COMMISSION**

Impact Assessment Board

Brussels, 2 g H/II 201

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Opinion

Title

**Impact Assessment accompanying the White Paper on
Insurance Guarantee Schemes (Resubmitted draft version of 10
May 2010)**

(A) Context

Guarantee schemes exist in a number of sectors in the financial services industry, and minimum protection standards have been harmonised at the European level by the 1994 Deposit Guarantee Scheme (DGS) Directive and the 1997 Investor Compensation Scheme (ICS) Directive. However, there is no such European framework in the insurance sector. To remedy this, the de Larosière Group recommended the setting-up of harmonised Insurance Guarantee Schemes (IGS) throughout the EU. In its Communication of 4 March 2009 “Driving European recovery”, the Commission announced that it would review the adequacy of existing guarantee schemes in the insurance sector and make legislative proposals. To this end it will adopt a White Paper in early 2010. This report follows earlier impact assessments accompanying the White Paper on Enhancing the Single Market Framework for Investment Funds in 2006 and the legislative proposal amending the UCITS Directive in 2008.

(B) Overall assessment

The report has been improved on a number of issues mentioned in the IAB’s first opinion, and provides a significant amount of analysis. It remains, however, highly technical and a further effort should be made to explain more clearly the link between the likelihood of default of insurance companies, the need for enhanced consumer protection and the need for action at EU level. The presentation of the objectives and the most relevant policy options should be simplified and made more transparent. The Board recommends a thorough editing of the report to remove repetitions and unnecessary detail.

The Board welcomes the fact that stakeholders will be able to give feedback on the White Paper that this IA report accompanies, and that a further impact assessment will accompany any follow-up measures and will analyse in detail the design features of any proposed insurance guarantee scheme.

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(C) Main recommendations for improvements

- (1) Further clarify the extent of the problem, to show why EU intervention is necessary.** The analysis in the problem definition has been strengthened and provides more statistical evidence concerning the likelihood of major defaults. The report should, however, summarise this in a less technical way, make more use of historical and hypothetical examples, and clarify the terminology used (in particular relating to losses, default and failures as it is not always clear what the potential losses passed to policy holders entail (*e.g.* unpaid claims or lost premiums). Some of the technical analysis could be moved to the Annexes. The report should also present a more balanced assessment of the extent of possible problems rather than examples of worst case scenarios only (high probability of default, high security), and the estimations of potential losses passed on to consumers should be put in perspective, for example with respect to GDP, revenues of the sector. Given that cross-border insurance activity is one of the justifications for EU action, and given that it is currently relatively small, the report should clarify the drivers of the expected growth of this share. The reference to the negative effects on competition caused by the different approaches across Member States and the lack of a level playing field in 3.2.2 and 3.3 should be clarified or omitted in view of the doubts that the report expresses about the ability of policyholders to assess the available information on insurance products and providers.
- (2) Present the objectives and all relevant policy options more transparently.** While the presentation of objectives and policy options in diagrammatic form can be helpful, it should be complemented by a clearly written explanation in the main text. The links with the problem description and in particular to the issue of financial stability should be further clarified in the report. Unclear terminology such as ‘paramount objective’ should be avoided. The specific objectives should be expressed more clearly and explicitly indicate that the aim is to protect consumers. In this context the report should also clarify if the current level of protection offered by existing IGS is too low since this is suggested by the calculations made in section 2. If this is the case then an additional objective could be to increase protection level for policy holders. The report should analyse in greater detail why it considers that different forms of EU intervention, such as exchange of best practice or a recommendation could not attain the objectives.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The report should be presented in a more succinct and less technical way. Unnecessary technical detail should be omitted and detailed data and analysis that supports the argument in the main text should be moved to Annexes. These annexes should, however, only contain material which is directly relevant to the report. Cross-links between the main text and the Annexes should be checked for consistency.

The report should give more prominence to the planned next steps in the development of this policy, and what impact assessment will need to be undertaken to inform these. As requested in the Board’s first opinion, the report should clarify to what extent previous consultation results - some of which are several years old - are still representative for current Member State and stakeholder opinion.

(E) IAB scrutiny process

Reference number	2009/MARKT/075
External expertise used	No
Date of IAB meeting	Written procedure